

Capito  
Capps  
Cardin  
Carson (IN)  
Carson (OK)  
Castle  
Chabot  
Chambliss  
Clay  
Clement  
Clyburn  
Coble  
Collins  
Combest  
Condit  
Cooksey  
Costello  
Cox  
Cramer  
Crane  
Crenshaw  
Crowley  
Cubin  
Culberson  
Cummings  
Cunningham  
Davis (CA)  
Davis (FL)  
Davis (IL)  
Davis, Jo Ann  
Davis, Tom  
Deal  
DeLay  
DeMint  
Deutsch  
Diaz-Balart  
Dicks  
Dingell  
Doolittle  
Doyle  
Dreier  
Duncan  
Dunn  
Edwards  
Ehlers  
Ehrlich  
Emerson  
Engel  
English  
Etheridge  
Evans  
Everett  
Ferguson  
Filner  
Fletcher  
Foley  
Forbes  
Ford  
Fossella  
Frelinghuysen  
Gallegly  
Ganske  
Gibbons  
Gilchrest  
Gillmor  
Gilman  
Gonzalez  
Goode  
Goodlatte  
Gordon  
Goss  
Graham  
Granger  
Graves  
Green (TX)  
Green (WI)  
Greenwood  
Grucci  
Gutierrez  
Gutknecht  
Hall (OH)  
Hall (TX)  
Hansen  
Harman  
Hart  
Hastings (WA)  
Hayes  
Hayworth  
Hefley  
Hill  
Hilleary  
Hilliard  
Hobson  
Hoeffel  
Holden

Holt  
Hooley  
Horn  
Houghton  
Hoyer  
Hulshof  
Hunter  
Hyde  
Inslee  
Isakson  
Israel  
Issa  
Istook  
Jackson-Lee  
(TX)  
Jenkins  
John  
Johnson (CT)  
Johnson (IL)  
Johnson, E.B.  
Johnson, Sam  
Jones (NC)  
Kanjorski  
Kaptur  
Keller  
Kelly  
Kildee  
Kilpatrick  
King (NY)  
Kingston  
Kirk  
Knollenberg  
Kolbe  
Kucinich  
LaHood  
Lampson  
Langevin  
Lantos  
Largent  
Larsen (WA)  
Larson (CT)  
Latham  
Leach  
Lewis (CA)  
Lewis (GA)  
Lewis (KY)  
Linder  
Lipinski  
LoBiondo  
Lowey  
Lucas (KY)  
Lucas (OK)  
Maloney (CT)  
Maloney (NY)  
Manzullo  
Mascara  
Matheson  
Matsui  
McCarthy (NY)  
McCrery  
McHugh  
McIntyre  
McKeon  
McKinney  
McNulty  
Meek (FL)  
Meeks (NY)  
Mica  
Millender-  
McDonald  
Miller (FL)  
Miller, Gary  
Mollohan  
Moore  
Moran (KS)  
Morella  
Murtha  
Myrick  
Nethercutt  
Ney  
Northup  
Norwood  
Nussle  
Ortiz  
Osborne  
Ose  
Otter  
Oxley  
Pallone  
Pascrell  
Pastor  
Pelosi  
Pence  
Peterson (MN)  
Peterson (PA)  
Phelps

Pickering  
Pitts  
Pombo  
Pomeroy  
Portman  
Pryce (OH)  
Quinn  
Radanovich  
Rangel  
Regula  
Rehberg  
Reynolds  
Rodriguez  
Roemer  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Ros-Lehtinen  
Ross  
Rothman  
Roukema  
Roybal-Allard  
Rush  
Ryan (WI)  
Ryun (KS)  
Sanchez  
Sandlin  
Saxton  
Schrock  
Scott  
Sensenbrenner  
Serrano  
Sessions  
Shadegg  
Shaw  
Sherwood  
Shinkus  
Delahunt  
Gephardt  
Herger  
Hostettler  
Hutchinson  
Jefferson

## NAYS—61

Abercrombie  
Baldwin  
Berkley  
Brown (OH)  
Capuano  
Conyers  
DeFazio  
DeLauro  
Doggett  
Dooley  
Eshoo  
Flake  
Farr  
Fattah  
Flake  
Frank  
Frost  
Hastings (FL)  
Hinchey  
Honda  
Jackson (IL)  
Kennedy (MN)

Kennedy (RI)  
Kerns  
LaFalce  
Lee  
Levin  
Lofgren  
Luther  
Markey  
McCarthy (MO)  
McCollum  
McDermott  
McGovern  
Meehan  
Miller, George  
Mink  
Moran (VA)  
Nadler  
Napolitano  
Oberstar  
Obey  
Oliver

Paul  
Payne  
Price (NC)  
Rahall  
Ramstad  
Rivers  
Royce  
Sabo  
Schaffer  
Schakowsky  
Sherman  
Slaughter  
Stark  
Tancredo  
Thompson (CA)  
Tierney  
Visclosky  
Waxman  
Wu

## ANSWERED "PRESENT"—11

Barrett  
Becerra  
Bonior  
Clayton

Hinojosa  
Hoekstra  
Jones (OH)  
Menendez

Petri  
Shays  
Watt (NC)

## NOT VOTING—31

Berman  
Bishop  
Bryant  
Coyne  
DeGette  
Delahunt  
Platts  
Herger  
Hostettler  
Hutchinson  
Jefferson

Kind (WI)  
Klecza  
LaTourette  
McInnis  
Neal  
Owens  
Putnam  
Reyes  
Riley  
Sanders

Sawyer  
Scarborough  
Schiff  
Spence  
Towns  
Udall (CO)  
Vitter  
Waters  
Watkins (OK)

□ 1230

Mr. STARK, Mr. GEORGE MILLER of California, Ms. LEE, Ms. LOFGREN, Mr. WU, Mr. CAPUANO, Ms. BERKLEY, Mr. LUTHER, Ms. DELAURO, Mr. MEEHAN, Mr. MARKEY, Ms. ESHOO, Ms. MCCARTHY of Missouri, Messrs. KERNs, MORAN of Virginia, McDERMOTT, THOMPSON of California, SHERMAN, DOOLEY of California, HASTINGS of Florida, KENNEDY of Minnesota, Mrs. MINK of Hawaii, Ms. SLAUGHTER, and Messrs. RAMSTAD, FROST, JACKSON of Illinois, and FATTAH changed their vote from "yea" to "nay."

Mr. STUPAK and Ms. ROYBAL-ALLARD changed their vote from "nay" to "yea."

Mr. PETRI, Mrs. CLAYTON, Mr. BONIOR, and Mr. WATT of North Carolina changed their vote from "yea" to "present."

Mr. GUTIERREZ changed his vote from "present" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER  
PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

## COMMENDING MILITARY AND DEFENSE CONTRACTOR PERSONNEL RESPONSIBLE FOR SUCCESSFUL BALLISTIC MISSILE TEST

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 195.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and agree to the resolution, H. Res. 195, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 321, nays 77, answered "present" 6, not voting 29, as follows:

[Roll No. 230]

## YEAS—321

Abercrombie  
Aderholt  
Akin  
Andrews  
Armey  
Baca  
Bachus  
Baker  
Ballenger  
Barcia  
Barr  
Bartlett  
Barton  
Bass  
Becerra  
Bentsen  
Bereuter  
Berkley  
Berry  
Biggett  
Bilirakis  
Blagojevich  
Blunt  
Boehlert  
Boehner  
Bonilla  
Bono  
Borski  
Boswell  
Boucher  
Boyd  
Brady (PA)  
Brady (TX)  
Brown (SC)  
Burton  
Buyer  
Callahan  
Calvert  
Camp  
Cannon  
Cantor  
Capito  
Capps  
Carson (IN)  
Carson (OK)  
Castle  
Chabot  
Chambliss  
Clement  
Coble  
Collins  
Combest  
Condit  
Cooksey  
Costello  
Cox  
Cramer  
Crane  
Crenshaw  
Cubin  
Culberson  
Cummings  
Cunningham  
Davis (CA)  
Davis (FL)  
Davis, Jo Ann  
Davis, Tom

Deal  
DeLauro  
DeLay  
DeMint  
Deutsch  
Diaz-Balart  
Dicks  
Dooley  
Doolittle  
Doyle  
Dreier  
Duncan  
Dunn  
Edwards  
Ehlers  
Ehrlich  
Emerson  
Engel  
English  
Etheridge  
Evans  
Everett  
Fattah  
Ferguson  
Flake  
Fletcher  
Kind (WI)  
Foley  
Forbes  
Ford  
Fossella  
Frelinghuysen  
Frost  
Gallegly  
Ganske  
Gekas  
Gibbons  
Gilchrest  
Gillmor  
Gilman  
Gonzalez  
Goode  
Goodlatte  
Gordon  
Goss  
Graham  
Granger  
Graves  
Green (TX)  
Green (WI)  
Greenwood  
Grucci  
Gutknecht  
Hall (OH)  
Hall (TX)  
Hansen  
Hart  
Hastings (WA)  
Hayes  
Hayworth  
Hefley  
Hill  
Hilleary  
Hinojosa  
Hobson  
Hoeffel  
Holden  
Hoolley

Horn  
Houghton  
Hoyer  
Hulshof  
Hunter  
Hutchinson  
Hyde  
Inslee  
Isakson  
Issa  
Istook  
Jenkins  
John  
Johnson (CT)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones (NC)  
Kanjorski  
Keller  
Kelly  
Kennedy (MN)  
Kennedy (RI)  
Kerns  
Kildee  
Kind (WI)  
King (NY)  
Kingston  
Kirk  
Knollenberg  
Kolbe  
LaHood  
Lampson  
Langevin  
Lantos  
Largent  
Larson (CT)  
Latham  
Leach  
Lewis (CA)  
Lewis (KY)  
Linder  
Lipinski  
LoBiondo  
Lofgren  
Lowey  
Lucas (KY)  
Lucas (OK)  
Maloney (CT)  
Maloney (NY)  
Manzullo  
Mascara  
Matheson  
Matsui  
McCarthy (NY)  
McCrery  
McHugh  
McIntyre  
McKeon  
McNulty  
Menendez  
Mica  
Millender-  
McDonald  
Miller (FL)  
Miller, Gary  
Mink

|               |               |               |
|---------------|---------------|---------------|
| Mollohan      | Roemer        | Stenholm      |
| Moore         | Rogers (KY)   | Strickland    |
| Moran (KS)    | Rogers (MI)   | Stump         |
| Moran (VA)    | Rohrabacher   | Sununu        |
| Morella       | Ros-Lehtinen  | Sweeney       |
| Murtha        | Ross          | Tancredo      |
| Myrick        | Rothman       | Tanner        |
| Napolitano    | Roukema       | Tauscher      |
| Nethercutt    | Roybal-Allard | Tauzin        |
| Ney           | Royce         | Taylor (MS)   |
| Northup       | Ryan (WI)     | Taylor (NC)   |
| Norwood       | Ryun (KS)     | Terry         |
| Nussle        | Sanchez       | Thomas        |
| Ortiz         | Sandlin       | Thompson (MS) |
| Osborne       | Saxton        | Thornberry    |
| Ose           | Schaffer      | Thune         |
| Otter         | Schrock       | Thurman       |
| Oxley         | Scott         | Tiahrt        |
| Pallone       | Sensenbrenner | Tiberi        |
| Pascrell      | Serrano       | Toomey        |
| Pence         | Sessions      | Traffant      |
| Peterson (MN) | Shadegg       | Turner        |
| Peterson (PA) | Shaw          | Upton         |
| Petri         | Shays         | Walden        |
| Phelps        | Sherman       | Walsh         |
| Pickering     | Sherwood      | Wamp          |
| Pitts         | Shimkus       | Watts (OK)    |
| Platts        | Shows         | Waxman        |
| Pombo         | Shuster       | Weldon (FL)   |
| Pomeroy       | Simmons       | Weldon (PA)   |
| Portman       | Simpson       | Weller        |
| Price (NC)    | Skeen         | Wexler        |
| Pryce (OH)    | Skelton       | Whitfield     |
| Quinn         | Smith (MI)    | Wicker        |
| Radanovich    | Smith (NJ)    | Wilson        |
| Rahall        | Smith (TX)    | Wolf          |
| Ramstad       | Smith (WA)    | Wu            |
| Regula        | Snyder        | Young (AK)    |
| Rehberg       | Souder        | Young (FL)    |
| Reynolds      | Spratt        |               |
| Rodriguez     | Stearns       |               |

## NAYS—77

|               |                |               |
|---------------|----------------|---------------|
| Ackerman      | Hoekstra       | Oberstar      |
| Allen         | Holt           | Olver         |
| Baird         | Honda          | Pastor        |
| Baldacci      | Jackson (IL)   | Paul          |
| Baldwin       | Jones (OH)     | Payne         |
| Barrett       | Kaptur         | Rangel        |
| Blumenauer    | Kilpatrick     | Rivers        |
| Bonior        | Kucinich       | Rush          |
| Brown (FL)    | LaFalce        | Sabo          |
| Brown (OH)    | Larsen (WA)    | Sawyer        |
| Capuano       | Lee            | Schakowsky    |
| Cardin        | Levin          | Slaughter     |
| Clay          | Lewis (GA)     | Solis         |
| Clayton       | Luther         | Stark         |
| Clyburn       | Markey         | Stupak        |
| Conyers       | McCarthy (MO)  | Thompson (CA) |
| Davis (IL)    | McCollum       | Tierney       |
| Doggett       | McDermott      | Udall (NM)    |
| Eshoo         | McGovern       | Velazquez     |
| Farr          | McKinney       | Visclosky     |
| Filner        | Meehan         | Watson (CA)   |
| Frank         | Meek (FL)      | Watt (NC)     |
| Gutierrez     | Meeks (NY)     | Weiner        |
| Hastings (FL) | Miller, George | Woolsey       |
| Hilliard      | Nadler         | Wynn          |
| Hinchev       | Neal           |               |

## ANSWERED "PRESENT"—6

|         |             |        |
|---------|-------------|--------|
| Crowley | Jackson-Lee | Pelosi |
| DeFazio | (TX)        |        |
| Dingell | Obey        |        |

## NOT VOTING—29

|          |            |              |
|----------|------------|--------------|
| Berman   | Hostettler | Sanders      |
| Bishop   | Israel     | Scarborough  |
| Bryant   | Jefferson  | Schiff       |
| Burr     | Klecza     | Spence       |
| Coyne    | LaTourette | Towns        |
| DeGette  | McInnis    | Udall (CO)   |
| Delahunt | Owens      | Vitter       |
| Gephardt | Putnam     | Waters       |
| Harman   | Reyes      | Watkins (OK) |
| Herger   | Riley      |              |

□ 1240

So, (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 189, I call up the joint resolution (H.J. Res. 36) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 189, the joint resolution is considered read for amendment.

The text of House Joint Resolution 36 is as follows:

## H.J. RES. 36

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein),*

## SECTION 1. CONSTITUTIONAL AMENDMENT.

The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

## "ARTICLE —

"The Congress shall have power to prohibit the physical desecration of the flag of the United States."

The SPEAKER pro tempore. After two hours of debate on the joint resolution, it shall be in order to consider an amendment in the nature of a substitute, if offered by the gentleman from Michigan (Mr. CONYERS), or his designee, which shall be considered read and debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 1 hour of debate on the joint resolution.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

## GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.J. Res. 36.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, House Joint Resolution 36 proposes to amend the United States Constitution to allow Congress to prohibit the physical desecration of the flag of the United States. The proposed amendment reads, "The Congress shall have power to prohibit the physical desecration of the flag of the United States."

The amendment itself does not prohibit flag desecration; it merely empowers Congress to enact legislation to prohibit the physical desecration of the flag and establishes boundaries within which it may legislate.

The American flag serves as a unique symbol of the ideas upon which America was founded. It is a national asset that helps preserve our unity, our freedom, and our liberty as Americans. This symbol represents our country's many hard-won freedoms, paid for with the lives of thousands of young men and women. The American people want their elected representatives to protect this cherished symbol.

Prior to the Supreme Court's ruling in 1989 in *Texas v. Johnson*, 48 States and the Federal Government had laws prohibiting desecration of the flag. Since that ruling, however, neither the States nor the Federal Government have been able to prohibit its desecration. In *Johnson*, the court, by a 5 to 4 vote, held that burning an American flag as part of a political demonstration was expressive conduct protected by the first amendment.

In response to *Johnson*, Congress overwhelmingly passed the Flag Protection Act of 1989, which amended the Federal flag statute to focus exclusively on the conduct of the actor, irrespective of any expressive message he or she might be intending to convey.

In 1990, the Supreme Court, in another 5 to 4 ruling, in *U.S. v. Eichman*, struck down that act as an infringement of expressive conduct protected by the first amendment, despite having also concluded that the statute was content-neutral. According to the Court, the Government's desire to protect the flag "is implicated only when the person's treatment of the flag communicates a message to others." Therefore, any flag desecration statute, by definition, will be related to the suppression of free speech, and, thus, run afoul of the first amendment.

Prohibiting physical desecration of the American flag is not inconsistent with first amendment principles. Until the *Johnson* and *Eichman* cases, punishing flag desecration had been viewed as compatible with both the letter and spirit of the first amendment, and both Thomas Jefferson and James Madison strongly supported government actions to prohibit flag desecration.

The first amendment does not grant individuals an unlimited right to engage in any form of desired conduct. Urinating in public or parading through the streets naked may both be done by a person hoping to communicate a message; yet both are examples of illegal conduct during which political debate or a robust exchange occurs.

□ 1245

As a result of the Court's misguided conclusions in *Johnson* and *Eichman*, however, flag desecration, or what Justice Rehnquist described as a "grunt,"